

IN THE

Supreme Court of the United States

October Term, 1994

REYNOLDSVILLE CASKET CO., *et al.*,
Petitioners,

vs.

CAROL L. HYDE,
Respondent.

ON WRIT OF CERTIORARI TO
THE SUPREME COURT OF OHIO

JOINT APPENDIX

WILLIAM E. RIEDEL
Counsel of Record
WARREN AND YOUNG
134 West 46th Street
Ashtabula, Ohio 44004
Telephone: (216) 997-6175
Attorney for Petitioners

DAVID J. EARDLEY
Counsel of Record
EARDLEY & ZULANDT
114 East Park Street
Chardon, Ohio 44024
Telephone: (216) 286-6177
Attorney for Respondent

November 15, 1994

BATAVIA TIMES PRINTING, INC.—Telephone (716) 344-2000

**PETITION FOR CERTIORARI FILED JUNE 30, 1994
CERTIORARI GRANTED OCTOBER 7, 1994**

20 PW

TABLE OF CONTENTS.

Relevant Docket Entries, Case No. 85710, Ashtabula County Court of Common Pleas, Jefferson, Ohio.....	1
Relevant Docket Entries, Case No. 91-A-1660, Court of Appeals, Eleventh District, Ashtabula County, Ohio.....	3
Relevant Docket Entries, Case No. 92-1682, The Supreme Court of Ohio.....	4
Complaint (August 11, 1987).....	6
Answer (October 13, 1987).....	10
Judgment Entry of the Court of Common Pleas (July 31, 1991).....	14
Judgment Entry and Opinion of the Court of Appeals, Eleventh District, Ashtabula County, Ohio (July 2, 1992).....	15
Opinion of the Supreme Court of Ohio (February 9, 1994).....	16
Rehearing Entry of the Supreme Court of Ohio (April 6, 1994).....	17
United States Constitution, Article VI, Clause 2.....	18
Ohio Constitution, Article I, Section 16.....	18
Ohio Revised Code, Section 2305.10.....	19
Ohio Revised Code, Section 2305.15.....	19
Ohio Revised Code, Section 2305.15(A).....	19

JOINT APPENDIX

Civil No. 85710
ASHTABULA COUNTY COURT
OF COMMON PLEAS

CAROL L. HYDE,
Plaintiff,

vs.

REYNOLDSVILLE CASKET CO.
AND JOHN M. BLOSH,
Defendants.

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
8-11-87	Filed Plaintiff's complaint for bodily injury
10-13-87	Filed Defendants' Answer
2-8-88	Filed by Defendants—Motion to Dismiss
3-7-88	Filed by Plaintiff—Brief Contra Defendants Motion to Dismiss
9-22-88	Filed by Defendants—Supplemental Brief of Law in Support of Motion for Summary Judgment
10-12-88	Filed by Plaintiff—Supplemental Brief in Opposition to Motion to Dismiss

11-3-88 Filed by Defendants—Supplemental Brief of Law in Support of Motion for Summary Judgment

11-25-88 Filed by Plaintiff—Reply to Defendants' Supplemental Brief of Law

7-12-89 Filed by Plaintiff—Supplemental Brief in Opposition to Motion to Dismiss

7-31-91 NOTICE of Motion to Dismiss
Complaint sustained

8-19-91 NOTICE OF APPEAL BY PLAINTIFF
CAROL L. HYDE AS TO ORDER
ENTERED 7-31-91

Case No. 91-A-1660
COURT OF APPEALS OF
ASHTABULA COUNTY, OHIO
ELEVENTH DISTRICT

CAROL L. HYDE,
Plaintiff-Appellant,

vs.

REYNOLDSVILLE CASKET CO.
AND JOHN M. BLOSH,
Defendants-Appellees.

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
9-19-91	Accelerated calendar scheduling notice filed
10-28-91	Filed Brief (Assignment of Errors) for Plaintiff-Appellant (Carol L. Hyde)
11-27-91	Filed Brief for Defendants-Appellees (Reynoldsville Casket Co. and John M. Bosh)
7-2-92	FILED OPINION AND JUDGMENT ENTRY: AFFIRMED
7-24-92	NOTICE OF APPEAL BY PLAINTIFF-APPELLANT AS TO OPINION ENTERED 7-2-92
11-23-92	JUDGMENT ENTRY—Motion and appeal allowed

Case No. 92-1682
 THE SUPREME COURT OF OHIO

CAROL L. HYDE,
Plaintiff-Appellant,

vs.

REYNOLDSVILLE CASKET CO.
 AND JOHN M. BLOSH,
Defendants-Appellees.

RELEVANT DOCKET ENTRIES

<i>DATE</i>	<i>PROCEEDINGS</i>	
8-21-92	Filed by Plaintiff-Appellant— Memorandum in Support of Jurisdiction	3-9-93 Filed Reply Brief of Spangenberg, Shibley, Tracey, Lancione & Liber
9-22-92	Filed by Defendants-Appellees— Memorandum in Opposition to Jurisdiction	3-10-93 Filed by Defendants-Appellants—Reply Brief
11-18-92	JUDGMENT ENTRY—Motion and appeal allowed	3-10-93 Filed Reply Brief of Amicus Curiae Brown & Szaller Co., L.P.A.
1-6-93	Filed by Plaintiff-Appellant— Brief on Merits	4-30-93 Filed Brief of Amicus Curiae of Ohio Academy of Trial Lawyers
1-6-93	Filed Brief of Amicus Curiae Brown & Szaller Co., L.P.A.	9-24-93 Filed Amicus Curiae Brief of Dalkon Shield Claimants Trust
1-7-93	Filed Brief of Amicus Curiae of Spangenberg, Shibley, Tracey, Lancione & Liber	2-9-94 Filed JUDGMENT ENTRY AND OPINION: REVERSED AND REMANDED
		2-18-94 Filed by Defendants-Appellees—Motion for Rehearing
		2-25-94 REHEARING ENTRY: DENIED
		3-4-94 Filed by Plaintiff-Appellant— Memorandum Opposing Appellees' Motion for Rehearing Instanter
		4-6-94 Mandate issued
		6-30-94 Filed by Defendants-Appellees—Petition for Writ of Certiorari to the United States Supreme Court

COMPLAINT AND JURY DEMAND

(Filed August 11, 1987)

CASE NO. 85710

JUDGE CARDINAL

[1] IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

CAROL L. HYDE,
R.D. 2,
Albion, PA 16401,
Plaintiff,

vs.

REYNOLDSVILLE CASKET CO.,
P.O. Box 68,
Reynoldsville, PA 15857,

and

John M. Blosch,
R.D. 1,
Reynoldsville, PA 15857,
Defendants.

COMPLAINT AND JURY DEMAND

FIRST CLAIM

1. On March 5, 1984, the plaintiff was a passenger in a motor vehicle (hereinafter "plaintiff's vehicle") proceeding south on State Route 193 in the Township of Denmark, County of Ashtabula, State of Ohio.

2. As plaintiff's vehicle approached the intersection with State Route 167, a vehicle driven by defendant John Blosch (hereinafter "Blosch") and owned by defendant Reynoldsville Casket Co., (hereinafter "The Casket Co."), pulled out of Route 167 in front of the plaintiff's vehicle.

3. Plaintiff's vehicle had the right of way at that intersection.

4. Blosch, by pulling out in front of the plaintiff's vehicle, was negligently failing to yield the right of way to the [2] plaintiff's vehicle.

5. As a result of Blosch's negligence, a collision occurred between plaintiff's vehicle and the vehicle driven by Blosch.

6. As a result of said collision, plaintiff experienced personal injuries, including but not limited to multiple trauma, fractured left ribs, left pneumo-thorax, cardiac contusion, fractured left arm with nerve damage and a fractured left foot.

7. As a result of said collision, plaintiff experienced considerable pain and suffering.

8. As a result of said collision, plaintiff lost considerable time from work.

9. As a result of said collision, plaintiff experienced considerable financial loss in the form of doctor, hospital, and other medical expenses.

10. As a result of said collision, plaintiff has experienced and will continue to experience disability and loss of function of the left arm, which may be permanent.

11. As a result of Blosch's negligence, plaintiff was damaged in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00).

SECOND CLAIM

12. Plaintiff does hereby incorporate by reference as if fully rewritten herein the allegations made in paragraphs One through Eleven, inclusive of this Complaint.

[3] 13. At the time of the collision, Blosch was an employee of the Casket Co.

14. Blosch's actions herein were in the scope and course of his employment with the Casket Co.

15. The Casket Co. is liable for the damages caused by the negligence of Blosch in the collision herein.

16. The Casket Co. is liable to plaintiff in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00).

Wherefore, the plaintiff CAROL HYDE demands judgment against defendants JOHN M. BLOSH and THE REYNOLDSVILLE CASKET COMPANY, jointly and severally, in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00) plus interest thereon at the legal rate, plus the costs of this action.

*/s/ DAVID J. EARDLEY
Attorney for Plaintiff
114 East Park Street
Chardon, Ohio 44024
(216) 286-6177 or 942-7718*

*/s/ RICHARD C. WOOLLAMS, JR.,
Attorney for Plaintiff
114 East Park Street
Chardon, Ohio 44024
(216) 286-6177*

[4]

JURY TRIAL

Plaintiff hereby demands a trial by jury herein.

*/s/ DAVID J. EARDLEY,
Attorney for Plaintiff*

*/s/ RICHARD C. WOOLLAMS, JR.,
Attorney for Plaintiff*

ANSWER

(Filed October 13, 1987)

CASE NUMBER 85710
(Judge Cardinal)**ASHTABULA COUNTY
COURT OF COMMON PLEAS
JEFFERSON, OHIO****CAROL L. HYDE,**
Plaintiff,

v.

REYNOLDSVILLE CASKET CO., et al.,
*Defendants.***ANSWER**

(Jury Demand Endorsed Hereon)

Now come the defendants, Reynoldsville Casket Co. and John M. Blosch, by and through counsel, having first obtained leave of Court to file a responsive pleading, and for their

FIRST DEFENSE**FIRST CLAIM**

1. Defendants admit the allegations contained in paragraph one (1) of the Complaint.
2. Defendants deny the allegations contained in paragraphs two (2), three (3), and four (4) of the Complaint.

3. Defendants admit that an automobile accident occurred involving motor vehicles operated by the plaintiff and John M. Blosch on March 5, 1984, but deny the remaining allegations contained in paragraph five (5) of the Complaint.

4. Defendants deny the allegations contained in paragraphs six (6), seven (7), eight (8), nine (9), ten (10), and eleven (11) of the Complaint.

SECOND CLAIM

5. In answer to paragraph twelve (12) of the Complaint, defendants reallege their answer to the First Claim.

6. Defendants admit the allegations contained in paragraph thirteen (13) of the Complaint.

7. Defendants cannot respond to the allegations and averments set forth in paragraph fourteen (14) of the Complaint in that said allegations and averments are forked, conclusory, and assume facts not in evidence, which facts would be inferentially admitted by defendants irrespective of their answer to said allegations and averments, but for the sole purpose of answering, defendants deny each and every allegation and averment set forth in paragraph fourteen (14) of the Complaint.

8. Defendants deny the allegations contained in paragraphs fifteen (15) and sixteen (16) of the Complaint.

SECOND DEFENSE

9. Plaintiff's Complaint fails to state a cause of action against defendants upon which relief can be granted.

THIRD DEFENSE

10. At the time and place alleged in the Complaint, the plaintiff's injuries and damages, if any, were the result of the actions of Gerald A. Ryan, over whom defendants had no control or responsibility.

FOURTH DEFENSE

11. Defendants allege that at the time and place alleged in the Complaint the plaintiff and Gerald A. Ryan, who was the operator of the motor vehicle in which the plaintiff was riding as a passenger, were engaged in a joint enterprise and that because of said joint enterprise the negligence of Gerald A. Ryan is imputed to the plaintiff.

FIFTH DEFENSE

12. Plaintiff's claims are now and hereafter barred by the applicable statute of limitations.

SIXTH DEFENSE

13. Plaintiff's claims are now and hereafter barred by the applicable equitable doctrine of laches.

WHEREFORE, defendants, Reynoldsville Casket Co. and John M. Blosch, having fully answered, pray that the Complaint be dismissed and that judgment be entered in favor of defendants and against the plaintiff for costs expended herein.

WARREN AND YOUNG

134 West 46th Street
P. O. Box 278
Ashtabula, OH 44004
(216) 997-6175

By: WILLIAM E. RIEDEL
Attorneys for defendants

JURY DEMAND

Defendants hereby submit their demand for a trial of the issues herein by a jury composed of the maximum number of jurors allowable by law.

WARREN AND YOUNG

By: WILLIAM E. RIEDEL
Attorneys for defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer was mailed October 12, 1987, to David J. Eardley at 114 East Park Street, Chardon, OH 44024, as attorney for the plaintiff.

WILLIAM E. RIEDEL

**JUDGMENT ENTRY OF THE COURT
OF COMMON PLEAS**

(Filed July 31, 1991)

Case No. 85710

[1] **IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO**

CAROL L. HYDE,
Plaintiff,

vs.

REYNOLDSVILLE CASKET CO., *et al.*,
Defendants.

JUDGE YOST

JUDGMENT ENTRY

The Judgment Entry of the Court of Common Pleas is printed in the Appendix to the Petition for Writ of Certiorari at pages A27-A34.

**JUDGMENT ENTRY AND OPINION OF THE
COURT OF APPEALS, ELEVENTH DISTRICT,
ASHTABULA COUNTY, OHIO**

(Filed July 2, 1992)

No. 91-A-1660

**IN THE COURT OF APPEALS
ELEVENTH DISTRICT**

STATE OF OHIO)
) ss.
COUNTY OF ASHTABULA)

CAROL L. HYDE,
Plaintiff-Appellant,

vs.

REYNOLDSVILLE CASKET CO., *et al.*,
Defendants-Appellees.

JUDGMENT ENTRY AND OPINION

The Judgment Entry and Opinion of the Court of Appeals, Eleventh District, Ashtabula County, Ohio is printed in the Appendix to the Petition for Writ of Certiorari at pages A17-A26.

OPINION OF THE SUPREME COURT OF OHIO

(Decided February 9, 1994)

Case No. 92-1682

CAROL L. HYDE,

Appellant,

v.

REYNOLDSVILLE CASKET CO., *et al.*,*Appellees.*

The Opinion of the Supreme Court of Ohio is printed in the Appendix to the Petition for Writ of Certiorari at pages A1-A16.

REHEARING ENTRY OF THE SUPREME COURT OF OHIO

(Dated April 6, 1994)

Case No. 92-1682

THE SUPREME COURT OF OHIO

CAROL L. HYDE,

Appellant,

v.

REYNOLDSVILLE CASKET CO., *et al.*,*Appellees.*

To wit: April 6, 1994

REHEARING ENTRY

The Rehearing Entry of the Supreme Court of Ohio is printed in the Appendix to the Petition for Writ of Certiorari at page A35.

CONSTITUTIONS INVOLVED**United States Constitution—Article VI, Clause 2**

Article VI, Clause 2 of the United States Constitution is printed in the Appendix to the Petition for Writ of Certiorari at page A36.

Ohio Constitution—Article I, Section 16

Article I, Section 16 of the Ohio Constitution is printed in the Appendix to the Petition for Writ of Certiorari at page A36.

STATUTES INVOLVED**Ohio Revised Code, Section 2305.10**

Ohio Revised Code, Section 2305.10 is printed in the Appendix to the Petition for Writ of Certiorari at pages A37 and A38.

Ohio Revised Code, Section 2305.15

Ohio Revised Code, Section 2305.15 is printed in the Appendix to the Petition for Writ of Certiorari at page A38.

Ohio Revised Code, Section 2305.15(A)

Ohio Revised Code, Section 2305.15(A) is printed in the Appendix to the Petition for Writ of Certiorari at page A39.